

U.S. Application No. 10/017,640 Examiner Jonathan P. Ouellette Art Unit 3629
Response to May 23, 2006 Office Action

REMARKS

In response to the Office Action dated May 23, 2006, Assignee (1) requests continued examination of the application, (2) amends independent claims 1, 16, and 17 pursuant to amendments discussed with Examiner Ouellette on September 19, 2006 and thereafter agreed to by Examiner Ouellette on September 21, 2006, (3) amends dependent claims 2-3, 5-11, 18-22, and 43-44, (4) adds new dependent claims 49-55, and (5) cancels (or has previously canceled) claims 4, 12-15, 23-42, 45-48 without prejudice or disclaimer. Consequently, Assignee respectfully submits that claims 1-3, 5-11, 16-22, 43-44, and 49-55 are in condition for allowance and respectfully solicits a Notice of Allowance for these claims.

September 19, 2006 Interview & September 21, 2006 Teleconference

On September 19, 2006, Jonathan Ouellette (Examiner), Robert Koch (Representative for Assignee), and Bambi Walters (Attorney for Assignee) participated in a teleconference to discuss (1) U.S. Patent No. 6,236,975 (Boe et al.), (2) U.S. Patent No. 6,983,478 that is related to and incorporated by reference into U.S. Patent Application No. 10/017,640, and (3) potential claim amendments to overcome the cited art.

On September 21, 2006, Examiner Ouellette and Ms. Walters further discussed proposed claim amendments to independent claims 1, 16, and 17 as presented in this Response and agreed that these amendments were allowable.

§§ 102 & 103 Rejections:

The United States Patent and Trademark Office, hereinafter referred to as the "Office" rejected 1-3, 5-13, 15-22, 32-44, 47 and 48 under 35 U.S.C. § 102(e) as being anticipated by *Boe et al.* (U.S. Patent No. 6,236,975) or under 35 U.S.C. § 103(a). As noted above, claims 12-13, 15, 32-42, and 47-48 are canceled without prejudice or disclaimer, rendering the rejection moot with regard to these claims. Assignee respectfully traverses this rejection.

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As the Assignee and Examiner Ouellette have discussed, the reference to *Boe* fails to include every element of the pending amended and agreed upon claims. The reference to *Boe*, then, does not anticipate nor does it obviate the claimed subject matter, and Assignee respectfully requests that Examiner Ouellette remove the rejections and allow the pending claims.

More specifically, Examiner Ouellette has agreed that the following pending independent claims are allowable:

1. (Currently Amended) A method for identifying a subscriber as desirable to receive an advertisement based on information relating to the subscriber's use of media programming delivered to the subscriber by a media delivery network, the method comprising:

collecting subscriber data about the subscriber's use of the media programming, collecting the subscriber data comprising:

- i) identifying a command of interest from the subscriber,
- ii) forming an event record that comprises the command of interest and a time associated with the command of interest;

transmitting the event record to a merge processor;

merging the event record with data describing the media programming delivered over the media delivery network to form event timelines which describe the programming selected by the subscriber over a period of time;

matching data from the event timelines with at least one relevant criteria describing which subscribers are desirable for receiving the advertisement; and

if data from the event timelines matches the at least one relevant criteria, then identifying the subscriber as a desirable subscriber to receive the-advertisement.

16. (Currently Amended) A computer-readable medium on which is encoded instructions for performing the following:

collecting subscriber data about the subscriber's use of the media programming, collecting the subscriber data comprising:

- i) identifying a command of interest from the subscriber,
- ii) forming an event record that comprises a the command of interest and a time associated with the command of interest;

transmitting the event record to a merge processor;

merging the event record with data describing the media programming delivered over the media delivery network to form event timelines which describe the programming selected by the subscriber over a period of time;

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matching data from the event timelines with at least one relevant criteria describing which subscribers are desirable for receiving the advertisement; and

if data from the event timelines matches the at least one relevant criteria, then identifying the subscriber as a desirable subscriber to receive the advertisement.

17. (Currently Amended) A system for identifying a subscriber as desirable to receive an advertisement based on information relating to the subscriber's use of media programming delivered to the subscriber by a media delivery network, the system comprising:

a programming content database, the programming content database comprising data describing the media programming delivered over the media delivery network;

a subscriber-action database, the subscriber-action database comprising subscriber-action data about the subscriber's selection and use of the media delivery network, the subscriber-action data comprising at least one event record that comprises a command of interest and a time associated with the command of interest;

a merge processor connected via means for communication with the programming content database, and the subscriber-action database, the merge processor for forming at least one event timeline which describes the media programming selected by the subscriber over a period of time by merging data from the programming content database with data from the subscriber-action database;

a subscriber attribute database, the subscriber attribute database comprising at least one relevant criteria describing which subscribers are desirable for receiving the advertisement; and

a data analyzer connected via means for communication to the subscriber attribute database and the merge processor, the data analyzer for matching data from the subscriber attribute database with data from event timelines to identify a desirable subscriber to receive the advertisement.

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Boe does not disclose, teach, and/or otherwise suggest the claimed subject matter of independent claims 1, 16, and 17. Therefore, independent claims 1, 16, and 17 and the respective claims that depend from each of these are allowable. For these reasons and others, *Boe* does not anticipate nor does *Boe* obviate the currently pending claims. Since claims 2-3 and 5-11 depend from claim 1 and recite additional features, claims 43-44 and 49-55 depend from claim 16 and recite additional features, and claims 18-22 depend from claim 17 and recite additional features, Assignee respectfully submits that claims 2-3, 5-11, 18-22, 43-44, and 49-55 are also allowable over *Boe*.

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Accordingly, Assignee respectfully solicits a Notice of Allowance.

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**AUTHORIZATION FOR PAYMENT OF FEES &
REQUEST FOR AN EXTENSION OF TIME**

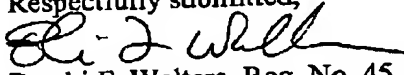
Assignee respectfully requests an additional one (1) month extension of time fee for the Response to the May 23, 2006 Office Action from August 23, 2006 to September 23, 2006. Further, the Assignee submits payment for the RCE fee.

Description of Fee	Amount
One Month Extension of Time Fee	\$120.00
Request for Continued Examination	\$790.00
Total	\$910.00

The Assignee, therefore, includes a Credit Card Payment Form PTO-2038 for \$910.00.

If there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

If the Office has any questions, the Office is invited to contact the undersigned at (757) 784-1978 (office), (757) 784-1978 (cellular), or bambi@wzpatents.com.

Respectfully submitted,

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Date: 9/22/06